

MAR 13 2015

SENATE RESOLUTION

REQUESTING THE JUDICIAL COUNCIL TO APPOINT A COMMITTEE TO REVIEW
AND RECOMMEND REVISIONS TO THE HAWAII PENAL CODE.

1 WHEREAS, the Hawaii Penal Code, first enacted in 1972, has
2 not been comprehensively updated since Act 314, Session Laws of
3 Hawaii 1986, to ensure that grades of offenses warrant the level
4 of culpability so that sentences are appropriate and
5 proportionate to the nature of the crime; and
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7 WHEREAS, the Hawaii Penal Code has been amended in a
8 piecemeal manner over the past several decades without paying
9 attention to whether the dollar values that set threshold levels
10 for various offenses and for restitution are appropriate and
11 proportionate to other sentences imposed for criminal offenses;
12 and
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14 WHEREAS, research by the Justice Policy Institute has
15 indicated that the current criminal justice system has a
16 disparate impact on low-income residents, particularly Native
17 Hawaiians, and is not a cost-effective approach to deterring
18 crime, reducing recidivism, or providing restitution; now,
19 therefore,
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21 BE IT RESOLVED by the Senate of the Twenty-eighth
22 Legislature of the State of Hawaii, Regular Session of 2015,
23 that the Judicial Council, established pursuant to section 601-
24 4, Hawaii Revised Statutes, is requested to appoint a committee
25 to review the Hawaii Penal Code and recommend to the Legislature
26 revisions to the Code that it concludes will help ensure that
27 sentences are fair and proportionate to the crime committed with
28 particular attention paid to Hawaii Penal Code sections that
29 base culpability on dollar amounts; and



1 BE IT FURTHER RESOLVED that the members of the committee
2 shall include:

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4 (1) A representative from the Judiciary;
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6 (2) A member of the Senate Committee on Judiciary and
7 Labor;
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9 (3) A member of the House of Representatives Committee on
10 Judiciary;
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12 (4) The Attorney General, or the Attorney General's
13 designee;
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15 (5) The prosecuting attorneys of each of the counties, or
16 their designees;
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18 (6) A representative from the Office of the Public
19 Defender;
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21 (7) A representative from the police department of each
22 county;
- 23
24 (8) Public or private economists;
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26 (9) Psychologists or social workers;
- 27
28 (10) A representative from the Office of Hawaiian Affairs;
- 29
30 (11) Private citizens interested in criminal law and civil
31 liberties;
- 32
33 (12) Hawaii attorneys in private practice who handle
34 criminal cases;
- 35
36 (13) A representative from the Intake Services Center
37 Division of the Corrections Division of the Department
38 of Public Safety;



1 (14) A representative from a prisoner advocacy group; and

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3 (15) A representative from a victim advocacy group;

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5 provided that the committee shall include at least one member
6 from each county; and

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8 BE IT FURTHER RESOLVED that the committee shall recommend
9 updates to the Hawaii Penal Code by:

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11 (1) Reviewing The American Law Institute Model Penal Code,
12 including recent proposals; the criminal codes of
13 other states; and other criminal law resources;

14
15 (2) Assessing the application of the principles of the
16 "Justice Reinvestment in Hawaii: Analyses & Policy
17 Options" report (August 2014) by the Council of State
18 Governments Justice Center to code sections in which
19 culpability is linked to a dollar value; and

20
21 (3) Analyzing whether grades and punishment are
22 appropriate and proportionate to other sentences
23 imposed for criminal or civil offenses and are cost-
24 effective in deterring crime, reducing recidivism, and
25 providing restitution to victims in a manner that
26 provides equal justice and punishment regardless of
27 socioeconomic class or ethnicity; and

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29 BE IT FURTHER RESOLVED that the committee may accept
30 grants, gifts, and other appropriations of funds to defray the
31 costs of its work; and

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33 BE IT FURTHER RESOLVED that the Judicial Council may
34 request the Legislative Reference Bureau to assist the committee
35 with research and reporting assistance, as needed; and

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37 BE IT FURTHER RESOLVED that the Judicial Council is
38 encouraged to use, to the greatest extent possible, the faculty
39 and students of the University of Hawaii William S. Richardson
40 School of Law in performing its work; and
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1 BE IT FURTHER RESOLVED that the members of the committee
2 serve without compensation; provided that members of the
3 committee may be reimbursed for the costs of mileage, parking,
4 and transportation from the Neighbor Islands; and
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6 BE IT FURTHER RESOLVED that no member of the committee
7 shall be made subject to Chapter 84, Hawaii Revised Statutes,
8 solely because of that member's participation as a member of the
9 committee; and
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11 BE IT FURTHER RESOLVED that the Judicial Council is
12 requested to submit its findings and recommendations, including
13 any proposed legislation, to the Governor and Legislature no
14 later than 20 days prior to the convening of the Regular Session
15 of 2016; and
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17 BE IT FURTHER RESOLVED that certified copies of this
18 Resolution be transmitted to the Chief Justice of the Hawaii
19 Supreme Court, Chairperson of the Board of Trustees of the
20 Office of Hawaiian Affairs, Acting Director of the Legislative
21 Reference Bureau, Attorney General, Director of Public Safety,
22 State Public Defender, prosecuting attorneys of each of the
23 counties, and police chiefs of each of the counties.
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OFFERED BY: 

